THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE G.CHANDRAIAH

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WRIT PETITIONS NO.17851 of 2004, 1174, 7330 of 2005 16457,

17265 OF 2006 and 6249 of 2007,

Dated: 24.07.2007

W.P.NO.17851 OF 2004

Between:

C. Manikya Kumar ..Petitioner

And

1. Government of A.P., rep., by
its secretary, Health, Medical & F.W.
Department, Secretariat, Hyderabad and
others.

.. Respondents.

WRIT PETITION NO.1174 OF 2005

Between:

1. Nagaraju Chetty and others. ..Petitioners

And

1. The Government of A.P., rep., by its
secretary, Health, Medical & Family Welfare
Department, Secretariat Buildings, Hyderabad
And others.

.. Respondents.

WRIT PETITION NO.7330 OF 2005

Between:

1. Shabbir Ahmed and others.

..Petitioners.

Government of A.P. rep., by its
Secretary, Medical & Health Department,
Secretariat, Hyderabad and others. ..Respondents.

WRIT PETITION NO.16457 OF 2006

Between:

C. Manikya Kumar ..Petitioner

And

1. Govt. of A.P., represented by its
Secretary, Health, Medical & F.W. Department,
Secretariat, Hyderabad.

.. Respondent.

WRIT PETITION NO.17265 OF 2006

1. The Principal Secretary to Government,
Health, Medical and Family Welfare Department,
A.P., Hyderabad and another.

..Petitioners

And

B. Lakshmi Reddy and others.

.. Respondents.

WRIT PETITION NO.6249 OF 2007

Between:

D. Satyanarayana … Petitioner

And

1. The Government of A.P., rep., by
   its Secretary, Health, Medical & Family Welfare
   Department, Secretariat, Hyderabad and others.

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITIONS NO.17851 of 2004, 1174, 7330 of 2005 16457, 17265 OF 2006 and 6249 of 2007

COMMON ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

These writ petitions are filed by the petitioners challenging the common order, dated 28.04.2004 passed by the A.P. Administrative Tribunal in O.A.No.81 of 2002 and batch.

The issue involved in all the writ petitions is one and the same. These writ petitions are the outcome of a common order in the above O.A and its batch. Hence, all these writ petitions are being disposed of by a common order.

The petitioners in all the writ petitions, except W.P.No:17265 of 2006 are the third parties. The petitioners in W.P.No.17265 of 2006 are the respondents and the respondents are the applicants in O.A.81 of 2002.

The respondents, who are applicants in O.A.No.81 of 2002, filed the above O.A. seeking to declare the action of the respondents in including the category V in category II through the impugned G.O.NO.489 H.M. & F.W.(J1) Department, dated 27.10.1998 as arbitrary and illegal and to set aside the same and also to direct the respondents to consider the case of the applicants for promotion to the post of service Engineer with all consequential benefits.

On hearing the rival contentions, the tribunal having observed that the chargemen along with the Junior technical Assistants should

have been included in the category of Foremen and similarly giving seniority to the Junior technical Assistants in the category of Foremen by virtue of their inclusion in Foremen category over and above Chargemen/Skilled Artisans, who were promoted as Foremen after the amendment made in the year 1998, must be held to be arbitrary and therefore, the applicants are entitled to their due seniority over and above the Junior Technical Assistants, who were included in the category of Foremen, allowed the O.A. Hence, the persons, who are affected by the order in the above O.A, filed the present writ petitions.

Heard the learned Counsel for the petitioners-third parties and the learned Government Pleader for Services and perused the material available on record.

It is the contention of the petitioners-third parties that the petitioners-third parties are not parties in the above O.A. and they are affected by the order in O.A.No.81 of 2002 and their seniority was set aside by the Tribunal without giving any opportunity of being heard of them and they are due to the promotion to the higher category and because of the order of the tribunal, they are deprived of their seniority and therefore, the order of the tribunal is liable to be set aside.

A perusal of the material on record clearly goes to show that the present petitioners-third parties in all the four writ petitions are not parties to the above O.A. and further, no opportunity was given for being heard of them. In a case of this nature, before passing an order to review the seniority list, it has to be observed as to whether any of the persons are deprived of their right to agitate against such review. But, the tribunal gave its findings without considering the repercussions as well as the interests of the persons, who are in the existing seniority list and who are due to the promotions. The observations of the tribunal in regard to the seniority are beyond the

scope of the relief that is sought for in the O.A. It is not in dispute that no opportunity was given to the present petitioners-third parties.

In that view of the matter and in the facts and circumstances of the case and in view of the involvement of the common interest of the categorized employees in question, without expressing any opinion on the merits of the case, we feel it appropriate to remand the matter for being heard of the petitioners herein and dispose of the same in accordance with law. Accordingly, the order of the tribunal is set aside and the matter is remitted back for fresh disposal after affording an opportunity to the petitioners herein.

However, it is made clear that all the writ petitioners-third parties shall make an appropriate application for coming on record and file their counter-affidavits, if they so choose, within a period of two weeks from the date of receipt of a copy of the order.

It is also made clear that the O.A. shall be disposed of by 30th October, 2007 in accordance with law. Till such time, no promotional avenues should be affected.

With the above observations, these writ petitions are allowed.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 24.7.2007

Note:
Issue C.C. in two days
(BO)

NN/Gurc.

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITIONS NO.17851 of 2004, 1174, 7330 of 2005 16457, 17265 OF 2006 and 6249 of 2007,

(Common Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

Dated: 24.07.2007